

**UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEW HAMPSHIRE**

Gerard Joseph Bean

v.

Civil No. 07-cv-328-JL

Larry Blaisdell, Warden,  
Northern New Hampshire  
Correctional Facility

**O R D E R**

Pending before this Court is Gerard Bean's petition for a writ of habeas corpus, filed pursuant to 28 U.S.C. § 2254. The Court received Bean's original petition on November 29, 2007 (document no. 8). Bean filed addenda to his petition on December 7, 2007 (document no. 9), December 10, 2007 (document no. 10), February 5, 2008 (document no. 17), March 4, 2008 (document no. 20), March 20, 2008 (document no. 21), June 9, 2008 (document no. 27), and June 23, 2008 (document no. 28). All of these documents will be accepted and considered, in the aggregate, to constitute Bean's petition for a writ of habeas corpus.

On February 7, 2008 and again on May 1, 2008 (document nos. 18 & 22), Bean was directed to exhaust the claims raised in this federal habeas petition in the state courts. Bean was

specifically instructed to raise, in the state courts, each of the claims that he wished to pursue here, including the federal nature of each of those claims. Once the claims had been finally ruled upon by the New Hampshire Supreme Court, Bean was directed to return to this Court, notify the Court of the exhaustion of his claims, and also to file any paperwork necessary to demonstrate that each claim, including the federal nature of each claim, had been exhausted in his post-conviction proceedings.

Bean has now asserted that his claims have been exhausted in the state courts by state habeas corpus litigation in the Coos County Superior Court in both 2006 and 2009. Bean states that he filed appeals of each of the denials of his Coos County habeas petitions, and that the New Hampshire Supreme Court, on both occasions, denied him relief. Most recently, the New Hampshire Supreme Court denied his appeal of the 2009 Coos County habeas petition on September 16, 2009.

On December 10, 2009, Bean asked this Court to lift the stay in this matter (document no. 43). The Court granted the motion and lifted the stay on December 11, 2009. Accordingly, the matter is again before this Court for preliminary review to determine, among other things, whether or not the petition is

facially valid and may proceed. See Rule 4 of the Rules Governing § 2254 Proceedings (requiring initial review to determine whether the petition is facially valid); United States District Court District of New Hampshire Local Rule 4.3(d)(2) (authorizing the Magistrate Judge to preliminarily review pro se pleadings).

In order to conduct the preliminary review, this Court must determine whether or not the petition demonstrates that the federal habeas claims have been exhausted in the state courts as Bean has claimed. For the Court to be able to make that determination, Bean must submit the following documents to this Court within thirty (30) days of the date of this Order:

1. The 2009 petition for a writ of habeas corpus filed in the Coos County Superior Court, and all of the supporting pleadings filed by petitioner to that matter<sup>1</sup>;

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<sup>1</sup>Bean should note that, at this stage of review, I am not conducting a review of the evidence Bean may utilize to prove the claims raised in the petition. I am only examining the petition itself to determine whether the federal claims contained therein have been squarely presented to the state courts. Accordingly, Bean need not submit to this Court every piece of paper he may have filed in the state courts to prove his claims; he need only submit the paperwork that shows that the claims themselves were presented to the state courts.

2. The state's filings, and the Coos County Superior Court's orders in regard to the 2009 habeas petition.

3. The notice of appeal, any appellate briefing documents, and all of the supporting pleadings filed by the petitioner or the respondent in the New Hampshire Supreme Court concerning the 2009 Coos County Superior Court habeas petition;

4. If any of the federal claims raised here were raised and exhausted in the 2006 Coos County Superior Court habeas petition, and appeal thereof, and not re-raised in the 2009 petition, Bean is directed to provide this Court with all of the Superior Court and Supreme Court pleadings, supportive memoranda, and orders from those Courts for the 2006 litigation.

**SO ORDERED.**

  
James R. Muirhead  
United States Magistrate Judge

Date: December 14, 2009

cc: Gerard Joseph Bean, pro se

JM:jba